

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LEONARD K. HOWELL, dba
HOWELL'S RV,

Plaintiff,

v.

WASHINGTON MUTUAL BANK, a
federally thrift institution,

Defendant .

Civil No. 08cv1060 JAH (WMc)

**ORDER DENYING MOTION TO
PROCEED *IN FORMA PAUPERIS*
WITHOUT PREJUDICE
[Doc. No. 2]**

On June 16, 2008, Plaintiff, a non-prisoner appearing *pro se*, filed a complaint, alleging Defendant aided and abetted a fraud perpetrated on Plaintiff. Plaintiff concurrently filed a motion to proceed *in forma pauperis*. A court may authorize the commencement of a suit without prepayment of fees if the plaintiff submits an affidavit, including a statement of all his or her assets, showing that he or she is unable to pay the fees. *See* 28 U.S.C. § 1915(a).

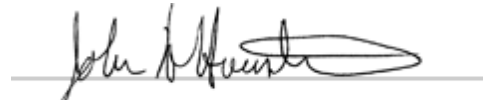
In his declaration in support of his motion, Plaintiff states that he is currently unemployed. Although Plaintiff has been self employed for 37 years in the RV appliance repair business, he states that he is out of work and has filed a Chapter 7 Petition in the Bankruptcy court. He states that he owns a 2004 Ford Focus for which he owes \$6,500, but it is unclear whether he is currently making payments. Plaintiff also states that he owns a house for which he has a mortgage exceeding \$710,000. Plaintiff receives a \$1,750 a month pension from the U.S. Navy and \$800 a month in benefits from Social Security. He stated that his pension from the U.S. Navy is used to make payments on the mortgage. He claims that his wife is dependant upon him for support. Plaintiff states he pays his day-to-day expenses from the "little money

1 he earns” from his appliance repair business in addition to his Social Security income. Plaintiff
2 does not state how much he actually earns from his business. Additionally, Plaintiff has a
3 checking account with Bank of America in the amount of \$300. Based upon the information
4 provided, this Court is unable to determine whether Plaintiff is able to pay the one time \$350
5 filing fee. The Court requires additional information to make this determination. Accordingly,
6 Plaintiff’s motion to proceed *in forma pauperis* is **DENIED without prejudice.**

7 Although this action cannot proceed until Plaintiff has either paid the \$350 filing fee
8 required to maintain this action or is determined to be qualified to proceed *in forma pauperis*,
9 the Court will allow Plaintiff adequate time to submit payment of the fee or provide additional
10 information about his economic status. **Accordingly, Plaintiff is notified that in order to**
11 **avoid dismissal of his case, he must either pay the \$350 filing fee or submit adequate**
12 **proof of his inability to pay the filing fee no later than July 21, 2008.** If Plaintiff does not
13 pay the \$350 filing fee or submit adequate proof of his inability to pay the fee by **July 21,**
14 **2008,** his case will be dismissed without prejudice and he will have to begin again by filing a
15 new complaint.

16 **IT IS SO ORDERED.**

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18 DATED: June 27, 2008

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21 JOHN A. HOUSTON
22 United States District Judge
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